

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION**

**FILED**

1/14/2020

Clerk, U.S. District Court  
District of Montana  
Helena Division

JESS J. DAVIES,

Plaintiff,

v.

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY; and ANDREW WHEELER,  
Administrator,

Defendants.

CV-17-115-H-BMM

**ORDER**

Defendants, the United States Environmental Protection Agency and Andrew Wheeler, have filed a motion seeking to apply a bifurcated standard of review to Counts I and II of the Amended Complaint. (Doc. 51). Plaintiff does not oppose applying a bifurcated standard of review to Counts I and II. (Doc. 55).

Defendants also filed a Motion for Partial Judgment on the Pleadings (Doc. 49) seeking a judgment that the Amended Complaint fails to state a claim for relief because 29 U.S.C. § 794 does not create a private cause of action against a federal employer. In response, Davies acknowledged that the Amended Complaint needed

to be amended, and the Court has granted a stipulated motion to do so. (Doc. 54, 56, 57).

**IT IS ORDERED** that Defendants' Motion to Apply a Bifurcated Standard of Review (Doc. 51) is **GRANTED**.

**IT IS ALSO ORDERED** that Defendants' Motion for Partial Judgment on the Pleadings (Doc. 49) is **DENIED** as moot.

DATED this 14th day of January, 2020.



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Brian Morris  
United States District Court Judge